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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

CHRISTIAN ANTHONY WILSON,

Defendant and Appellant.

B290969

(Los Angeles County
Super. Ct. No. NA107204)

APPEAL from a judgment of the Superior Court of Los Angeles County, Daniel J. Lowenthal, Judge. Affirmed.

Marta I. Stanton, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance by Plaintiff and Respondent.

On August 30, 2017, defendant Christian Wilson, along with codefendant Adam Treadwell, were charged with first degree residential burglary in violation of Penal Code section 459, a felony (count 1), and receiving stolen property exceeding \$950 in value in violation of Penal Code section 496, subdivision (a), a felony (count 2). On the date of his preliminary hearing, December 13, 2017,¹ defendant plead nolo contendere to count 2 and the trial court dismissed count 1.²

Defendant's appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, identifying no issues and requesting that this court review the record and determine whether any arguable issue exists on appeal. We have reviewed the record, conclude the record reveals no arguable issue on appeal, and thus affirm.

FACTUAL AND PROCEDURAL BACKGROUND

We set forth below those facts and events relevant to this appeal.

Pursuant to the negotiated plea bargain, on January 31, 2018, the trial court placed defendant on formal probation for five

¹ Defendant, who was out of custody on bail, waived time several times for his preliminary hearing, and the trial court ordered a preplea report at the time he initially plead not guilty to the charged counts.

² The December 13, 2017 minute order states that defendant plead nolo contendere to both counts and the trial court found a factual basis for the plea. As set forth in our factual discussion, the disposition stated in the minute order for the January 31, 2018 sentencing hearing reflects that defendant was convicted on count 2 and the trial court dismissed count 1.

years subject to serving 364 days in county jail with credit for 12 days. The trial court ordered defendant to pay fines as well as to comply with certain nonmonetary conditions of probation.

On August 24, 2018, the trial court conducted a victim restitution hearing. Defendant was present. The victim testified about the value of two Rolex watches for which she was seeking restitution.

Defense counsel argued defendant should not be liable for any victim restitution because “it was never put on the record by the D.A.’s office that they were actually seeking restitution” and that restitution “was never ordered.”³ The trial court noted the objection and conducted the restitution hearing. Defense counsel further argued defendant was convicted only of receiving stolen property and there was no *Harvey* waiver.⁴

Defense counsel also objected to admission of the appraisals for lack of authentication and foundation. Defendant proffered no evidence of valuation, but argued the trial court should take

³ We note the record does not contain a transcript of the plea hearing. At the sentencing hearing, however, the trial court, presided over by the same judge who accepted defendant’s nolo contendere plea, described a “reference as to restitution when the court inquired of the People whether a restitution hearing was needed, and they indicated it was.” The trial court did not identify the document containing that reference. The trial court further explained codefendant was then in custody and the latter reference arose in the context of his waiver of appearance at the restitution hearing. The trial court also noted defendant was out of custody at that time because he had a later surrender and sentencing date.

⁴ *People v. Harvey* (1979) 25 Cal.3d 754.

into account the fair market value of the watches. After taking the matter under submission, on June 19, 2018 the trial court ordered defendant and Treadwell “jointly” to pay the victim \$73,000 in restitution.

On June 27, 2018, defendant filed a notice of appeal checking off the box stating, “[t]his appeal is based on the sentence or other matters occurring after the plea that do not affect the validity of the plea.”

DISCUSSION

We appointed counsel to represent defendant. After examining the record, counsel filed a *Wende* brief raising no issues on appeal and requesting that we independently review the record. (*People v. Wende, supra*, 25 Cal.3d 436.) This court advised defendant of the opportunity to file a supplemental brief. He filed none. We conclude that defendant has not demonstrated reversible error.

The minute order from the date of defendant’s plea recites that he was orally advised of “the possible consequences of a plea of guilty or nolo contendere.” It is true that the sentencing minute order does not specify victim restitution as a condition of probation. Victim restitution, however, was mandatory here. (Cal. Const., art I, § 28, subd. (b)(13)(B); Pen. Code, § 1202.4, subd. (f); *People v. Rowland* (1997) 51 Cal.App.4th 1745, 1751–1752 [“victim restitution is mandatory and a sentence without such an award is invalid”].)

We also observe that the preplea report checked the box for victim restitution in the amount of \$206,000. “[T]he defendant [moreover] need not be informed of the possibility of a restitution order as a probation condition before the court accepts his plea.”

(*People v. Campbell* (1994) 21 Cal.App.4th 825, 830, citing *People v. Goulart* (1990) 224 Cal.App.3d 71, 81.) Defendant's notice of appeal eschews any attack on the validity of his plea.

The record demonstrates that the prosecution satisfied its burden to prove the amount of restitution by a preponderance of the evidence. (*People v. Holmberg* (2011) 195 Cal.App.4th 1310, 1319–1320 [property owner's statement made in probation report regarding valuation is prima facie evidence of loss].) The victim testified about each watch's value and had two appraisals to support her valuations. This was sufficient to support the trial court's award of restitution. (*People v. Prosser* (2007) 157 Cal.App.4th 682, 691–692.)

We have reviewed the record and find no arguable issue. Appointed counsel has fully complied with his responsibilities and no arguable issue exists. (*People v. Kelly* (2006) 40 Cal.4th 106, 126; *People v. Wende, supra*, 25 Cal.3d at pp. 441–442.)

DISPOSITION

The judgment is affirmed.

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BENDIX, J.

We concur:

ROTHSCHILD, P. J.

CHANEY, J.